

### Remarks

This Amendment is in response to the Office Action mailed November 17, 2005. Claims 1-36 are pending in this application. Claims 12-22 and 33 have been allowed. Claims 1-11, 23-32 and 34-36 have been rejected. Claim 27 has been objected to but contains allowable subject matter.

Claims 1-9, 23-26 and 34-36 have herein been canceled. Claims 10 and 27-32 have herein been amended. Claims 11-22 and 33 remain unchanged. New dependent Claims 37-52 have been added.

Claims 1-9, 23-26 and 34-36 have herein been canceled to separate the product claims from the method claims. Applicant intends to pursue the canceled claims by way of a divisional application, and reserves the right to respond to the Examiner's rejections in the divisional application, without waiving any objections thereto.

The Examiner has indicated that "the TTBLs crystals" in Claims 9 and 10 lack proper antecedent basis. Accordingly, it is respectfully submitted that the amendments to Claim 10 correct this issue. Claim 9 has been canceled.

Claims 23-26, 28-32, 35 and 36 have been rejected under 35 U.S.C. 112, first paragraph. The Examiner indicates that the tetra basic lead sulfate (not the composition thereof) is subsequently

added to the battery paste mix as the battery paste additive. It is respectfully submitted that the amendments to Claims 28-32 resolve this issue. Claims 23-26 and 35-36 have been canceled and, as such, need not be addressed at this time.

Claims 2, 3, 5, 27, 35 and 36 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 2, 3, 5 and 35-36 have been canceled and, as such, need not be addressed at this time. Regarding Claim 27, the term "substrate" has been changed to substance to correct the indefiniteness issue.

Claims 1-11, 23-26, 28-30, 32 and 34 have been rejected under 35 U.S.C. 102(b) as being anticipated by Chen (U.S. Pre-Grant Publication No. 2002/0124388). For the following reasons, the Examiner's rejection is respectfully traversed.

Chen is not the same ("identity of invention") as the rejected claims, as required by 35 U.S.C. 102. Chen does not make, use or put an additive in a paste to make a paste product. Chen discloses a method of cooking a paste, i.e., a specific way of making battery paste by putting in a special chemical reactor at high temperatures, and further utilizing a polymer and optional surfactant. Further, Chen's TTBLS crystals are not micronized.

Nonetheless, Claims 1-9, 23-26 and 34 have been canceled and, as such, need not be addressed at this time. Claims 10, 28-30 and

32 have herein been amended for clarification purposes to address the Examiner's 35 U.S.C. 112 issues. For the above reasons, it is respectfully submitted that these amended claims are not anticipated by Chen.

Claims 1-8, 10, 30, 32 and 34 have been rejected under 35 U.S.C. 102(b) as being anticipated by Biagetti (U.S. Patent No. 3,765,943). For the following reasons, the Examiner's rejection is respectfully traversed.

Biagetti is not the same ("identity of invention") as the rejected claims, as required by 35 U.S.C. 102. Biagetti does not make, use or put an additive in a paste to make a paste product. Biagetti discloses a method of making TTBLs and using that as a paste by mixing it with water. Further, Biagetti's TTBLs crystals are not micronized. Biagetti teaches away from micronization, disclosing an overall length in the range of 5 to 100 microns, and indicating that lengths up to 1000 microns are desirable (Column 5, lines 11-24).

Nonetheless, Claims 1-8 and 34 have been canceled and, as such, need not be addressed at this time. Claims 10, 30 and 32 have herein been amended for clarification purposes to address the Examiner's 35 U.S.C. 112 issues. For the above reasons, it is

respectfully submitted that these amended claims are not anticipated by Biagetti.

Claims 31, 35 and 36 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, as applied to Claims 1-11, 23-26, 28-30, 32 and 34. For the following reasons, the Examiner's rejection is respectfully traversed.

Chen does not make obvious the rejected claims under 35 U.S.C. 103 for the reasons discussed above with respect to Chen. It is noted that the Examiner has recognized that Chen does not expressly teach the weight percentages recited in the instant claims. Further, because Chen does not disclose the general conditions of the rejected claims for the reasons discussed above, *In re Boesch* is inapplicable. Still further, the instant claims are not obvious in view of Chen because Chen does not recognize the claimed weight percentages as a result-effective variable.

Nonetheless, Claims 35 and 36 have been canceled and, as such, need not be addressed at this time. Claim 31 have herein been amended for clarification purposes to address the Examiner's 35 U.S.C. 112 issues. For the above reasons, it is respectfully submitted that this amended claim is not made obvious by Chen.

New Claims 37-52 have been added. Care has been taken to see that no new matter has been added. Support for the added claims

can be found, *inter alia*, on page 9 of the application. It is respectfully submitted that none of the cite prior art anticipates or makes obvious, alone or in combination, the limitations claimed in new Claims 37-52.

It is respectfully submitted that none of the prior art of record, either alone or in combination, fairly teaches, suggests or discloses the novel and unobvious features of Applicants' claims as set forth herein. Accordingly, Applicants respectfully assert that the claims as presented herein are now in condition for allowance. An early notice allowance is respectfully requested.

Any arguments of the Examiner not specifically addressed should not be deemed admitted, conceded, waived, or acquiesced by Applicant. Any additional or outstanding matters the Examiner may have are respectfully requested to be disposed of by telephoning the undersigned.

A supplemental information disclosure statement is enclosed.

A Petition for a two month extension of time is enclosed.

A Form PTO-2038 in payment of the extension fee and IDS fee is enclosed. The same number of claims added has been deleted, and as such, no additional claims fee is believed to be necessary.

The Commissioner is hereby authorized to charge any additional fees which may be required, including the extension and

IDS fees if there is any problem with the credit card payment, or any additional claims fee if necessary, to Deposit Account No. 16-0657.

A postcard is enclosed evidencing receipt of the same.

Respectfully submitted,  
**PATULA & ASSOCIATES, P.C.**

A handwritten signature in cursive script, appearing to read "C. T. Riggs Jr.", written in dark ink.

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